

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
3470 Twelfth Street, Riverside, CA 92501
CIVIL MINUTES -- GENERAL

Case No. ED CV 09-00004-SGL(PJWx)

Date: January 15, 2009

Title: U.S. BANK NATIONAL ASSOCIATION, ET AL. -v- SARA DELGADO, ET AL.

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PRESENT: HONORABLE STEPHEN G. LARSON, UNITED STATES DISTRICT JUDGE

Jim Holmes
Courtroom Deputy Clerk

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None present

None present

PROCEEDINGS: **ORDER TO SHOW CAUSE**

The Court has received and reviewed defendant's January 14, 2009, notice of removal, seeking to remove to this Court an unlawful detainer action filed by plaintiff in Riverside County Superior Court. In the notice, defendant argues that this Court has subject matter jurisdiction over the unlawful detainer action because there is "complete diversity" and defendant "believes that the amount in controversy exceeds \$75,000." The complaint filed by plaintiff tells a different story. The complaint specifically concedes that the amount "demanded" is "under \$10,000." This specific averment of what plaintiff seeks by way of damages defeats any suggestion that the amount in controversy exceeds \$75,000.

In the notice defendant also asserts that the Court has federal question jurisdiction because she has demanded that plaintiff "identify the statutory basis for the" unlawful detainer claim. Presumably, defendant is arguing that in forcing plaintiff to identify the underlying mortgage that was foreclosed upon and then led to the eviction action in state court she could raise claims that the mortgage contains various violations of federal law such as the Truth In Lending Act. However, that one may have a federal defense to a claim does not convert plaintiff's claim into one arising under federal law. For the Court to have subject matter jurisdiction over a case, a cause of action in the case (not a defense to it) must arise under the laws of the United States.

Given the substantial questions that exists as to whether this Court has jurisdiction to hear this matter, defendant is hereby **ORDERED TO SHOW CAUSE** within seven (7) days of the date

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Initials of Deputy Clerk: jh

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U.S. BANK NATIONAL ASSOCIATION, ET AL. v SARA DELGADO, ET AL.

MINUTE ORDER of January 15, 2009

of this Order why this case should not be remanded to state court. Defendant's failure to timely respond to the Order to Show Cause shall be considered by the Court as a failure to prosecute this matter and will result in the summary remand of the matter to state court.